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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,530	10/27/2003	Holger Richert	SANZ-251	1899
24972	7590	04/30/2007		
FULBRIGHT & JAWORSKI, LLP 666 FIFTH AVE NEW YORK, NY 10103-3198			EXAMINER BAUER, SCOTT ALLEN	
			ART UNIT 2836	PAPER NUMBER
			MAIL DATE 04/30/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/694,530

Applicant(s)

RICHERT ET AL.

Examiner

Scott Bauer

Art Unit

2836

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 21-32.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE


8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 3. NOTE: The proposed amendment to claim 21 was added to overcome Berthaud by claiming that $m < n$ at any time. This amendment would require further consideration.

Continuation of 11. does NOT place the application in condition for allowance because: the arguments were not persuasive to overcome the rejection of Berthaud. Applicants argue that Berthaud does not teach the phrase "wherein a control is provided which connects as many modules to respective one of the m consumers so that the consumer receives the power required by said consumer." Applicants then argue that the energy supplies are connected to the consumers via a bus, rather than being connected individually. However, the above recitation does not state that the consumers must be individually connected to the energy supplies. The above recitation is read to mean that the controller will ensure that as many energy supplies as needed will be connected to a respective one of the m consumers, regardless of the method used to connect them. Berthaud teaches that under the situation where $m < n$, the device will supply enough energy to each one of the devices through the bus as required by the devices. As such, Berthaud does teach a plurality of power supplies connected to one consumer. Applicants next argue that Berthaud does not teach the claimed invention because the consumers can be "switched off" and thus couldn't meet the claim recitation that $m < n$ as there are never all n consumers simultaneously provided with power. However, claim 21 does not recite that all n consumers are never simultaneously supplied with power. It is the "switching off" of Berthaud that creates the situation where $m < n$. As long as Berthaud teaches that at some point during operation that all of the language of the claim has been met, then the reference discloses the claimed invention. As Applicants state on page 5, under normal conditions all consumers are supplied with energy and the $m < n$ condition is only met during a fault or overload. However, during the overload all of the language is disclosed, including supplying a respective one consumer with required power via the power bus. Applicants further argue that the system disclosed by Berthaud is a contrary system to the present invention. Regardless to this, there is a situation disclosed by Berthaud that teaches all the claimed language of claim 21. As Applicants point out on page 6 of Arguments, Berthaud meets the recitation that $m < n$, although only in extraordinary circumstances. Regardless of the circumstance, Berthaud teaches this feature. Applicants next argue that Berthaud does not teach that the sum of the power supplyable by the k energy modules is smaller than the power, which would be necessary, if all n consumers required simultaneously electrical power. However, Applicants then state on page six that Berthaud teaches this condition under abnormal occurrences. This abnormal occurrence is the same occurrence that allows for $m < n$, that is, during an overload. The remainder of the arguments to the Berthaud reference further point to the belief that the reference does not teach the claimed invention because Berthaud does not teach that $m < n$ at all times or that a plurality of energy modules are connected to a respective one of the m consumers. These arguments have already been addressed above. Lastly, Applicant argues the combinability of Berthaud and Sellers stating that only hindsight would have provided motivation to combine the two. However, proper motivation was given to combine the two reference in the previous action. As Berthaud teaches a system of supplying power to a load and Sellers teaches an electrical consumer, the two references are found to be combinable.

 4/27/07

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